REMARKS

Claim 1 has been amended to correct a typographical error. The phrase "change it location" has been amended to "change its location." No new matter has been added. Claims 1-20 are currently pending in the present application. Reexamination and reconsideration of the application, as amended, are respectfully requested.

REJECTION OF CLAIMS 1-2 UNDER 35 U.S.C. 103

Claims 1-2 are rejected under 35 U.S.C. 103(a) for the reasons set forth in paragraph 3 on pages 2-4 of the Action. Specifically, claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toh (U.S. Pat. No. 5,987,011), which is hereinafter referred to as "Toh" or "the Toh reference." in view of Antonucci et al. (U.S. Pat. No. 6,584,307), which is hereinafter referred to as "Antonucci" or "the Antonucci reference."

The rejections under 35 U.S.C. 103 are respectfully traversed, at least insofar as applied to the amended claims, and reconsideration and reexamination of the application is respectfully requested for the reasons set forth hereinbelow.

First, it is respectfully submitted that the mobile asset 220 of Antonucci is not the same and does not fairly teach or suggest the current node as claimed. For example, the mobile asset 220 of Antonucci is described as "one or more secondary PSAP/emergency response units such as police, fire, emergency medical, disaster recovery or other units," (see description related to FIG. 6 of Antonucci), which is very different from the current node as claimed.

Moreover, it is respectfully submitted that the Public Safety Answering Points (PSAPs) of Antonucci are not the same and do not fairly teach or suggest the current node as claimed. Antonucci states that one shortcoming of 911 systems prior to Antonucci's

proposed system is the "difficulty in rerouting of calls to an appropriate PSAP 36 geographically proximate to a caller when a PSAP receives a misrouted 911 call." (col. 10, lines 41-65) Antonucci proposes a system that uses geographic information about a caller's location to route a call to a PSAP most proximate to the caller's locus (col. 12, line 66 to col. 13, line 11). In the example, a caller located in Arizona calls an agency located in Michigan, but is connected to a PSAP nearest to the caller located in Arizona.

However, it is respectfully submitted that using the location of the caller to route a call to the nearest PSAP (col. 2, line 52 to col. 3, line 4; col. 9, lines 63-67, col. 11, lines 53-57; col. 13, lines 49-53; col. 14, lines 1-5 & col. 14, lines 11-15) is very different from "selectively forwarding a message to another node in an intelligent manner that employs the position data of the current node," as claimed. Stated differently, Antonucci employs "geographic information relating to callers' loci" (col. 12, lines 54-55), which is not the same as the geographic position data of the current node used by the current node in the "selectively forwarding" step, as claimed.

I. Antonucci Reference Fails To Meet The Requirement That References Be In An Art That Is Analogous To That Of The Invention

It is well-settled law that the references used in an obviousness rejection must either be in the field of the inventor's endeavor or reasonably pertinent to the specific problem with which the inventor was involved. (See In re Deminski, 796 F. 2d 436, 442, 230 USPQ 313, 315 (Fed. Cir. 1986)). Furthermore, this requirement may be stated differently as the following inquiry: whether the references relied upon by the Examiner are in an art analogous to that of the invention. (See Wang Labs., Inc. v. Toshiba Corp., 26 USPQ 2d 1767, 1773 (Fed. Cir. 1993))

The policy or rationale behind this requirement is explained as follows:

> In resolving the question of obviousness under 35 U.S.C. § 103, we presume full knowledge by the inventor of all the prior art in the field of his endeavor. However, with regard to prior art outside the field of his endeavor, we only presume knowledge from those arts reasonably pertinent to the particular problem with which the inventor was involved. The rationale behind this rule precluding rejections based on combination of teachings from references from non-analogous arts is the realization that an inventor could not possibly be aware of every teaching in every art. Thus, we attempt to more closely approximate the reality of the circumstances surrounding the making of an invention by only presuming knowledge by the inventor of prior art in the field of his endeavor and in analogous arts. The determination that a reference is from a nonanalogous art is therefore two-fold. First, we decide if the reference is within the field of the inventor's endeavor. If it is not, we proceed to determine whether the reference is reasonably pertinent to the particular problem with which the inventor was involved. In re Wood, 202 USPQ 171, 174 (C.C.P.A. 1979) [emphasis added.]

Moreover, the Federal Circuit has set forth how to determine whether a reference is reasonably pertinent to the particular problem with which the inventor was involved.

> Two criteria have evolved for determining whether prior art is analogous: (1) whether the art is from the same field of endeavor, and (2) if the reference is not within the field of the inventor's endeavor, whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved. . . . A reference is reasonably pertinent if . . . it is one which, because of the matter with which it deals, logically would have commended itself to the inventor's attention in considering his problem. . . . If a reference disclosure has the same purpose as the claimed invention, the reference relates to the same problem, . . . [i]f it is directed to a different purpose, the inventor would accordingly have had less motivation or occasion to consider it. In re Clay, 23 USPQ 2d 1058, 1060–61 (Fed. Cir. 1992)

It is respectfully submitted that the Antonucci reference is neither in the field of the invention nor reasonably pertinent to the specific problem with which the invention is involved.

A. Antonucci Reference Is Not In The Field Of The Inventor's Endeavor

The Antonucci reference is not in the same field of endeavor as the claimed invention. Furthermore, the Antonucci reference is not in the same field of endeavor as the Toh reference. The Office Action states in a conclusory fashion that Toh and Antonucci are "in the same field of endeavor." However, it is respectfully submitted that the Action has

characterized the field of endeavor at such a high level of abstraction as to make the analogous art requirement meaningless.

For example, the Antonucci reference describes itself as a "system and method for communicating between a special number call answering agency and a mobile action asset the answering agency answers a special number call placed by a caller." In contrast, the invention as claimed is directed to a method for routing messages in ad-hoc networks. Also, the different classifications (class and subclass) of the Toh reference versus the Antonucci reference further support the position that Antonucci is not in the same field of endeavor as Toh and the claimed invention.

The Federal Circuit has warned against characterizing the field of endeavor at an unreasonably broad level:

> The Allen-Bradley art is not in the same field of endeavor as the claimed subject matter merely because it relates to memories. It involves memory circuits in which modules of varying sizes may be added or replaced; in contrast, the subject patents teach compact modular memories. Wang Labs., Inc. v. Toshiba Corp., 26 USPQ 2d 1767, 1773 (Fed. Cir. 1993)

Accordingly, it is respectfully requested that the broad range of the Antonucci patent asserted by the Action be appropriately narrowed to give reasonable meaning to the analogous art requirement. When appropriately narrowed, it will become evident that the range of the Antonucci reference does not cover the invention as claimed (i.e., Antonucci is not in the same field of endeavor as the claimed invention).

B. Antonucci Reference Is Not Reasonably Pertinent To The Specific Problem With Which The Inventor Was Involved

The Antonucci reference is not reasonably pertinent to the specific problem with which the inventor was involved. The Office Action states that Toh and Antonucci are combinable because "it would have been obvious to those having ordinary skill in the art at

the time of the invention to implement the step of forwarding the message to another node in an intelligent manner that employs the geographic position data of the current node, such as that taught by Antonucci, in Toh to estimate the position of the wireless caller." However, it is respectfully submitted that the Action has once again characterized the problem faced by the Antonucci reference and the invention at such a high level of abstraction as to make the analogous art requirement meaningless.

The Antonucci reference and the invention are directed to addressing or solving two very different problems. The problems are dictated by the specific requirements of the two different applications. In other words, the Toh and Antonucci references are very different approaches to very different problems. The Toh reference is directed to a routing method for ad-hoc mobile networks. In sharp contrast, the Antonucci reference is directed to using geographic information about a caller's location to route a call to a PSAP most proximate to the caller's locus. Consequently, Antonucci addresses technical challenges, requirements, considerations, and difficulties that are very different from the technical challenges, requirements, considerations, and difficulties addressed by the claimed invention that is related to routing messages in ad-hoc networks.

The Federal Circuit has warned against characterizing the specific problem the inventor attempted to solve at an unreasonably broad level:

> Wang's SIMMs were designed to provide compact computer memory with minimum size, low cost, easy repairability, and easy expandability. . . . In contrast, the Allen-Bradley patent relates to a memory circuit for a larger, more costly industrial controller. . . . Thus, there is substantial evidence in the record to support a finding that the Allen-Bradley prior art is not reasonably pertinent and is not analogous. Wang Labs., Inc. v. Toshiba Corp., 26 USPQ 2d 1767, 1773 (Fed. Cir. 1993)

Accordingly, it is respectfully requested that the Action's broad characterization of the problem that Antonucci attempted to solve be appropriately narrowed to give reasonable

meaning to the analogous art requirement. When appropriately narrowed, it will become evident that the problem that Antonucci attempts to solve is very different from the problem addressed by the invention as claimed.

II. Impermissible Hindsight Has Been Used To Combine the Toh Reference with the Antonucci Reference

It is respectfully submitted that the claimed invention has been improperly used as an instruction manual or "template" to piece together selected teachings of the Toh reference and selected teachings from the Antonucci reference to arrive at the claimed invention. The motivation of one of ordinary skill in the art to combine two references cannot be aided or be based upon applicant's own teachings.

Consequently, it is respectfully submitted that without the teachings of the present invention, the combination of Toh and Antonucci would not have been obvious. Furthermore, Toh would not be combined with Antonucci by one of ordinary skill in the art because of the differences in the field of invention, differences in the type of problem being solved and the differences in design considerations of the two systems.

Accordingly, for these reasons, and for the reasons discussed above, it is respectfully submitted that claims 1-2 patentably distinguish over Toh in view of Antonucci. Withdrawal of this rejection under 35 U.S.C. section 103(a) is respectfully requested.

Conclusion

For all the reasons advanced above, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the pending claims are requested, and allowance is earnestly solicited at an early date. The Examiner is invited to telephone the undersigned if the Examiner has any suggestions, thoughts or comments, which might expedite the prosecution of this case.

Respectfully submitted,

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February 1, 2005
(Date)